

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FEDERAL TRADE COMMISSION,

No. C 10-00022 WHA

Plaintiff,

v.

**ORDER RE EXEMPTION
CLAIMED BY ROY LIN**

INC21.COM CORPORATION, *et al.*,

Defendants.

Defendant Roy Yu Lin claims an exemption from execution of the judgment entered against him in this action. Specifically, he claims a \$33,000 exemption for a “401k retirement account at Mass Mutual” pursuant to Section 704.115 of the California Code of Civil Procedure (Dkt. No. 210-1). A judgment debtor has the burden of claiming and proving entitlement to any exemption under the Fair Debt Collection Practices Act. The debtor’s claim of an exemption prevents the government from selling or otherwise disposing of the property until a court determines whether the debtor is entitled to the claimed exemption. 28 U.S.C. 3014.


“All amounts held, controlled, or in process of distribution by a private retirement plan, for the payment of benefits as an annuity, pension, retirement allowance, disability payment, or death benefit from a private retirement plan are exempt.” Cal. Civ. Proc. Code § 704.115(b). The statute defines three categories of retirement accounts subject to this exemption, and the Ninth Circuit has provided guidance on determining whether a particular account qualifies as a retirement account under the statute. *See Bloom v. Robinson*, 839 F.2d 1376 (9th Cir. 1988).

1 Roy Lin, however, has not described or documented the account for which he claims the
2 exemption in any detail. As such, the present record is insufficient for determining whether he is
3 entitled to the claimed retirement account exemption. In addition, the FTC argues that even if
4 Roy Lin can demonstrate entitlement to the claimed exemption, it may not apply in light of the
5 asset freeze and asset disposition ordered in this action (Dkt. No. 210 at 2–3).

6 By **MAY 18, 2011**, Roy Lin shall file a sworn declaration identifying and describing each
7 account to which he claims the retirement account exemption applies. Any relevant supporting
8 documentation must be appended. The FTC then may file a response by **MAY 25, 2011**. After
9 reviewing those submissions, a decision will be made as to whether further briefing or a hearing
10 will be necessary.

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12 **IT IS SO ORDERED.**

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14 Dated: May 3, 2011.

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17 WILLIAM ALSUP
18 UNITED STATES DISTRICT JUDGE
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